

# HOUSE BILL 881

F1, Q3

3lr1120

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By: **Delegate Queen**

Introduced and read first time: February 9, 2023

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Early Learning Collaboratives – Established and Tax Credit for Contributions**

3 FOR the purpose of authorizing certain public and private providers of prekindergarten to  
4 form certain early learning collaboratives as part of a certain publicly funded  
5 prekindergarten program; requiring certain funds to be distributed to an early  
6 learning collaborative in a certain manner; authorizing a certain person to make a  
7 certain monetary contribution to an early learning collaborative; allowing a credit  
8 against the State income tax for a certain monetary contribution to an early learning  
9 collaborative subject to certain limitations; requiring the State Department of  
10 Education to administer the credit; and generally relating to prekindergarten, early  
11 learning collaboratives, and an income tax credit for a certain monetary contribution  
12 to an early learning collaborative.

13 BY repealing and reenacting, with amendments,  
14 Article – Education  
15 Section 5–229(d), 7–1A–01, 7–1A–04(b), and 7–1A–05  
16 Annotated Code of Maryland  
17 (2022 Replacement Volume)

18 BY adding to  
19 Article – Education  
20 Section 7–1A–05.1 and 7–1A–05.2  
21 Annotated Code of Maryland  
22 (2022 Replacement Volume)

23 BY adding to  
24 Article – Tax – General  
25 Section 10–757  
26 Annotated Code of Maryland  
27 (2022 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Education**

4 5–229.

5 (d) (1) For public providers **THAT ARE NOT PART OF AN EARLY LEARNING**  
6 **COLLABORATIVE UNDER TITLE 7, SUBTITLE 1A OF THIS ARTICLE**, each fiscal year:

7 (i) The State shall distribute the State share to each county board;  
8 and

9 (ii) The county board shall distribute to each public provider the  
10 minimum school funding amount for prekindergarten calculated under § 5–234 of this  
11 subtitle.

12 (2) For private providers **THAT ARE NOT PART OF AN EARLY LEARNING**  
13 **COLLABORATIVE UNDER TITLE 7, SUBTITLE 1A OF THIS ARTICLE**, each fiscal year:

14 (i) The State shall distribute the State share for private providers  
15 to the Department;

16 (ii) The county shall distribute the local share for private providers  
17 to the Department; and

18 (iii) The Department shall distribute the State and local share to the  
19 private providers.

20 (3) **FOR PROVIDERS THAT ARE PART OF AN EARLY LEARNING**  
21 **COLLABORATIVE UNDER TITLE 7, SUBTITLE 1A OF THIS ARTICLE, EACH FISCAL**  
22 **YEAR:**

23 (I) **THE STATE SHALL DISTRIBUTE THE STATE SHARE:**

24 1. **TO EACH COUNTY BOARD IN AN EARLY LEARNING**  
25 **COLLABORATIVE; AND**

26 2. **FOR PRIVATE PROVIDERS IN AN EARLY LEARNING**  
27 **COLLABORATIVE TO THE DEPARTMENT;**

28 (II) **THE COUNTY SHALL DISTRIBUTE:**

29 1. **TO EACH PUBLIC PROVIDER, THE MINIMUM SCHOOL**  
30 **FUNDING AMOUNT FOR PREKINDERGARTEN CALCULATED UNDER § 5–234 OF THIS**

1 SUBTITLE; AND

2                                   **2. THE LOCAL SHARE FOR PRIVATE PROVIDERS IN AN**  
3 **EARLY LEARNING COLLABORATIVE TO THE DEPARTMENT; AND**

4                                   **(III) THE DEPARTMENT SHALL DISTRIBUTE THE STATE AND**  
5 **LOCAL SHARE TO THE PRIVATE PROVIDERS IN AN EARLY LEARNING**  
6 **COLLABORATIVE.**

7 7-1A-01.

8           (a) In this subtitle the following words have the meanings indicated.

9           (b) “Cost of quality” means the per-pupil amount provided under § 5-229 of this  
10 article.

11           (c) **“EARLY LEARNING COLLABORATIVE” MEANS A GROUP OF PUBLIC AND**  
12 **PRIVATE PROVIDERS THAT TOGETHER MEETS THE REQUIREMENTS UNDER §§**  
13 **7-1A-04 AND 7-1A-05.1 OF THIS SUBTITLE.**

14           **(D)** “Eligible prekindergarten provider” includes an:

15                           (1) Eligible public provider; [and]

16                           (2) Eligible private provider; AND

17                           **(3) EARLY LEARNING COLLABORATIVE.**

18           **[(d)] (E)** (1) “Eligible private provider” means a community-based early  
19 learning program that:

20   (i) Is licensed in the State;

21   (ii) Does not charge more tuition for full-day prekindergarten than  
22 the cost of quality; and

23   (iii) Meets the requirements under § 7-1A-04 of this subtitle.

24                           (2) “Eligible private provider” includes the Ulysses Currie Head Start  
25 Program under § 5-231 of this article.

26           **[(e)] (F)** “Eligible public provider” means an early learning program that:

27   (1) Is provided by a county board at a public school; and

1 (2) Meets the requirements under § 7-1A-04 of this subtitle.

2 [(f)] (G) “Full-day prekindergarten” means an early learning program with a  
3 six and one-half hour school day.

4 [(g)] (H) “Prekindergarten program” means an early learning program at an  
5 eligible prekindergarten provider.

6 [(h)] (I) “Prekindergarten slot” means the available space for a child to attend  
7 a prekindergarten program.

8 [(i)] (J) “Tier I child” means a child:

9 (1) Who is 3 or 4 years old;

10 (2) Whose family income is less than or equal to 300% of the federal poverty  
11 level; and

12 (3) Whose family chooses to enroll the child in full-day prekindergarten.

13 [(j)] (K) “Tier II child” means a child:

14 (1) Who is 4 years old;

15 (2) Whose family income is more than 300% but not more than 600% of the  
16 federal poverty level; and

17 (3) Whose family chooses to enroll the child in full-day prekindergarten.

18 [(k)] (L) “Tier III child” means a child:

19 (1) Who is 4 years old;

20 (2) Whose family income is more than 600% of the federal poverty level;  
21 and

22 (3) Whose family chooses to enroll the child in full-day prekindergarten.

23 7-1A-04.

24 (b) In addition to the requirements listed in subsection (a) of this section, an  
25 eligible prekindergarten provider shall:

26 (1) If the provider is an eligible private provider **OR AN EARLY LEARNING**  
27 **COLLABORATIVE**, achieve a quality rating level of 3 in the Maryland EXCELS program  
28 and publish that quality rating in a publicly available manner, determined by the

1 Department;

2 (2) If the provider is an eligible public provider, achieve a quality rating  
3 level of 4 in the Maryland EXCELS program and publish that quality rating in a publicly  
4 available manner, determined by the Department;

5 (3) Submit to the Department a plan to achieve a quality rating level 5 in  
6 the Maryland EXCELS program within 5 years after becoming an eligible prekindergarten  
7 provider;

8 (4) Achieve in accordance with the plan a quality rating level 5 in the  
9 Maryland EXCELS program within 5 years after becoming an eligible prekindergarten  
10 provider and publish that quality rating in a publicly available manner, determined by the  
11 Department; and

12 (5) Except as otherwise provided in § 7-1A-07 of this subtitle, be open for  
13 pupil attendance in accordance with § 7-103 of this title.

14 7-1A-05.

15 (a) (1) Each county board shall enter into a memorandum of understanding  
16 with the Department, each eligible private provider **AND EARLY LEARNING**  
17 **COLLABORATIVE** participating in publicly funded prekindergarten in the county, and  
18 other applicable government agencies.

19 (2) Before executing a memorandum of understanding under this section,  
20 each county board shall submit an implementation plan of the proposed memorandum of  
21 understanding to the Accountability and Implementation Board in accordance with §  
22 5-404 of this article.

23 (b) The memorandum of understanding shall provide for:

24 (1) Services for children with disabilities;

25 (2) A process by which a parent is able to indicate a preference for eligible  
26 prekindergarten providers;

27 (3) The manner for processing the payment of the State share, local share,  
28 and family share for each child who is enrolled with an eligible prekindergarten provider;

29 (4) Any agreed upon administrative costs to be retained by an agency that  
30 is party to the agreement;

31 (5) The manner in which the parties will meet the requirements of this  
32 subtitle;

33 (6) A plan to address racial and socioeconomic integration in

1 prekindergarten classrooms; and

2 (7) Any other provisions necessary to carry out this subtitle.

3 (c) A memorandum of understanding under this section shall seek to avoid, to the  
4 extent practicable, a disproportionate concentration of students of the same race, ethnicity,  
5 disability status, and income within an eligible provider.

6 **7-1A-05.1.**

7 (A) **THE PURPOSE OF AN EARLY LEARNING COLLABORATIVE IS TO ENABLE  
8 PUBLIC AND PRIVATE PROVIDERS TO JOIN TOGETHER TO MEET THE REQUIREMENTS  
9 OF § 7-1A-04 OF THIS SUBTITLE.**

10 (B) (1) **EACH EARLY LEARNING COLLABORATIVE SHALL CONSIST OF:**

11 (I) **ONE ELIGIBLE PUBLIC PROVIDER; AND**

12 (II) **ONE ULYSSES CURRIE HEAD START PROGRAM UNDER §  
13 5-231 OF THIS ARTICLE.**

14 (2) **IN ADDITION TO THE REQUIRED MEMBERS UNDER PARAGRAPH  
15 (1) OF THIS SUBSECTION, AN EARLY LEARNING COLLABORATIVE MAY INCLUDE ONE  
16 OR MORE PRIVATE PROVIDERS OF A COMMUNITY-BASED EARLY LEARNING  
17 PROGRAM THAT:**

18 (I) **ARE LICENSED IN THE STATE; AND**

19 (II) **DO NOT CHARGE MORE TUITION FOR FULL-DAY  
20 PREKINDERGARTEN THAN THE COST OF QUALITY.**

21 (C) (1) **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, EACH  
22 PROSPECTIVE EARLY LEARNING COLLABORATIVE SHALL DESIGNATE A LEAD  
23 MEMBER.**

24 (2) **THE LEAD MEMBER SHALL:**

25 (I) **SUBMIT AN APPLICATION TO THE DEPARTMENT FOR  
26 APPROVAL AS AN EARLY LEARNING COLLABORATIVE;**

27 (II) **BE THE FISCAL AGENT FOR PURPOSES OF RECEIVING AND  
28 DISTRIBUTING A CONTRIBUTION MADE TO THE EARLY LEARNING COLLABORATIVE  
29 UNDER § 7-1A-05.2 OF THIS SUBTITLE; AND**

1 (III) ENSURE EACH MEMBER OF THE EARLY LEARNING  
2 COLLABORATIVE IS COMPLIANT WITH § 7-1A-04 OF THIS SUBTITLE.

3 (3) THE APPLICATION UNDER PARAGRAPH (2)(I) OF THIS  
4 SUBSECTION SHALL BE SUBMITTED IN THE MANNER AND FORM THAT THE  
5 DEPARTMENT REQUIRES.

6 (4) THE COUNTY BOARD SHALL BE THE LEAD MEMBER IF THERE IS NO  
7 SUITABLE ALTERNATIVE.

8 7-1A-05.2.

9 (A) AN INDIVIDUAL MAY MAKE A MONETARY CONTRIBUTION TO A LEAD  
10 MEMBER OF AN EARLY LEARNING COLLABORATIVE TO SUPPORT THE COSTS OF THE  
11 EARLY LEARNING COLLABORATIVE.

12 (B) A LEAD MEMBER THAT RECEIVES A CONTRIBUTION UNDER THIS  
13 SECTION SHALL:

14 (1) PROVIDE A RECEIPT TO THE PERSON MAKING THE  
15 CONTRIBUTION; AND

16 (2) DISTRIBUTE THE CONTRIBUTION EQUALLY AMONG THE  
17 MEMBERS OF THE EARLY LEARNING COLLABORATIVE.

18 (C) AN INDIVIDUAL WHO MAKES A CONTRIBUTION UNDER THIS SECTION  
19 MAY BE ELIGIBLE FOR AN INCOME TAX CREDIT UNDER § 10-757 OF THE  
20 TAX - GENERAL ARTICLE.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
22 as follows:

23 Article - Tax - General

24 10-757.

25 (A) IN THIS SECTION, "DEPARTMENT" MEANS THE STATE DEPARTMENT OF  
26 EDUCATION.

27 (B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A TAXPAYER MAY  
28 CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO THE  
29 AMOUNT STATED IN THE TAX CREDIT CERTIFICATE PROVIDED BY THE DEPARTMENT  
30 FOR A CONTRIBUTION MADE TO AN EARLY LEARNING COLLABORATIVE IN  
31 ACCORDANCE WITH § 7-1A-05.2 OF THE EDUCATION ARTICLE.

1           **(C) BEFORE RECEIVING A TAX CREDIT CERTIFICATE UNDER THIS SECTION,**  
2 **A TAXPAYER SHALL SUBMIT TO THE DEPARTMENT AN APPLICATION WITH THE**  
3 **FOLLOWING INFORMATION:**

4           **(1) THE NAMES OF THE TAXPAYER AND THE EARLY LEARNING**  
5 **COLLABORATIVE TO WHICH THE CONTRIBUTION WAS MADE;**

6           **(2) THE RECEIPT PROVIDED UNDER § 7-1A-05.2 OF THE EDUCATION**  
7 **ARTICLE; AND**

8           **(3) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.**

9           **(D) (1) SUBJECT TO THE LIMITATIONS OF THIS SUBSECTION, THE**  
10 **DEPARTMENT, ON A FIRST-COME, FIRST-SERVED BASIS, SHALL ISSUE A TAX CREDIT**  
11 **CERTIFICATE TO A TAXPAYER WHO HAS MET THE REQUIREMENTS OF SUBSECTION**  
12 **(C) OF THIS SECTION.**

13           **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE AMOUNT**  
14 **OF THE TAX CREDIT STATED IN THE TAX CERTIFICATE SHALL BE EQUAL TO THE**  
15 **AMOUNT OF THE CONTRIBUTION INDICATED ON THE TAXPAYER'S RECEIPT.**

16           **(3) THE DEPARTMENT MAY NOT ISSUE TAX CREDIT CERTIFICATES**  
17 **FOR CREDIT AMOUNTS:**

18                   **(I) TOTALING MORE THAN \$1,000,000 FOR A SINGLE TAXPAYER**  
19 **IN A TAXABLE YEAR; AND**

20                   **(II) IN THE AGGREGATE TOTALING MORE THAN \$16,000,000 IN**  
21 **ANY TAXABLE YEAR.**

22           **(E) ON OR BEFORE JANUARY 31 EACH YEAR, THE DEPARTMENT SHALL**  
23 **REPORT TO THE COMPTROLLER ON THE TAX CREDIT CERTIFICATES ISSUED UNDER**  
24 **THIS SECTION DURING THE PRIOR TAXABLE YEAR.**

25           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
26 1, 2023. Section 2 of this Act shall be applicable to all taxable years beginning after  
27 December 31, 2022.